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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,181	12/05/2001	Daniele Bergo	U 013761-1	6923

7590 10/07/2004
Ladas & Parry
26 West 61 Street
New York, NY 10023

EXAMINER

GARLAND, STEVEN R

ART UNIT PAPER NUMBER

2125

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,181

Applicant(s)

BERGO ET AL.

Examiner

Steven R Garland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/26/02, 6/11/02, 8/9/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/11/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of the invention of Group I in the reply filed on 8/9/04 is acknowledged.

2. However in view of applicant's amendment making all the claims dependent on claim 1, all claims will be examined. The restriction requirement set forth in the previous office action is withdrawn in view of applicant's amendment to the claims.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9, lines 2-3, "said third communication network" lacks a proper antecedent basis.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. WO 00/16647 in view of Kubo et al. 5,526,827.

Lewis et al. teaches a cigarette manufacturing facility with making/packing devices. (see figures 30 and 31 for example) Lewis teaches the use of human machine interfacing (HMI); different types of networks such as a fieldbus; use of TCP/IP and ETHERNET; use of a client/server arrangement (page 34, lines 3-9; page 39, lines 1-5); use of various types of software and protocols (the client and server inherently use software to perform their respective functions and implement the protocols); connecting to an external network (page 38, lines 27-30); use of performance reports, remote control, password protection, and diagnostics (aggregating data) (page 39, lines 6-36); remote repairing and upgrading, and downloading factory data and other information such as a master clock signal for control purposes; (page 45, line 27 to page 46, line 5) Also see the abstract; figures; page 4, lines 6-26; page 33, line 30 to page 34, line 34; and page 36, line 22 to page 46, line 5.

Lewis et al. however does not specifically state that asynchronous communication is used to update the collection computer, but does teach notification when a fault occurs.

Kubo et al. teaches monitoring cigarette making machines and the alternatives of either automatically transmitting the data to a server or in response to requests from the server for data. See the abstract and col. 6, lines 6-14.

It would have been obvious to one of ordinary skill in the art to modify Lewis in view of Kubo and either transmit the data asynchronously or in response to a request from the server. This would allow a machine failure indication to be transmitted rapidly (which in this case the server acts as slave), or allow the server to access the most up to date information for a user (in this case the server acts as the master).

8. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. WO 00/16647 in view of Kubo et al. 5,526,827 as applied to claims 1-17 above, and further in view of Blad 6,675,067.

Lewis et al. teaches a cigarette manufacturing facility with making/packing devices. (see figures 30 and 31 for example) Lewis teaches the use of human machine interfacing (HMI); different types of networks such as a fieldbus; use of TCP/IP and ETHERNET; use of a client/server arrangement (page 34, lines 3-9; page 39, lines 1-5); use of various types of software and protocols (the client and server inherently use software to perform their respective functions and implement the protocols); connecting to an external network (page 38, lines 27-30); use of performance reports, remote control, password protection, and diagnostics (aggregating data) (page 39, lines 6-36); remote repairing and upgrading, and downloading factory data and other information such as a master clock signal for control purposes; (page 45, line 27 to page 46, line 50. Also see the abstract; figures;

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page 4, lines 6-26; page 33, line 30 to page 34, line 34; and page 36, line 22 to page 46, line 5.

Lewis et al. however does not specifically state that asynchronous communication is used to update the collection computer, but does teach notification when a fault occurs.

Kubo et al. teaches monitoring cigarette making machines and the alternatives of either automatically transmitting the data to a server or in response to requests from the server transmitting data. See the abstract and col. 6, lines 6-14.

It would have been obvious to one of ordinary skill in the art to modify Lewis in view of Kubo and either transmit the data asynchronously or in response to a request from the server. This would allow an indication of machine failure to be transmitted rapidly (in this case the server acts as slave) or allow the server to access the most up to date information for a user (in this case the server acts as the master).

Lewis and Kubo however do not specifically teach the use of email notification.

Blad teaches the use of email to notify a customer or other interested parties of a predetermined event. See the abstract.

It would have been obvious to one of ordinary skill in the art to modify Lewis and Kubo in view of Blad to use email to notify the various interested parties of various types of events such as of needed repairs and failures. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Focke et al. 6,629,397 is similar to Lewis et al.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 703-305-9759, after 10/13/04 at 571-272-3741. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on 703-308-0538 after 10/12/04 at (571)272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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STEVEN GARLAND



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